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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,003	08/29/2001	Nobuko Yamamoto	B588-023	9023

26272            7590            10/12/2006

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NEW YORK, NY 10036

EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/942,003	YAMAMOTO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Cristina Owen Sherr	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 July 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,7-11,17-21,24-28,31-37,39-42,45-51,53,57,58,60 and 61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 7-11, 17-21, 24-28, 31-37, 39-42, 45-51, 53, 57-58, and 60-61 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
  - 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Note: A copy of the application subject to restriction and/or election requirement.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/05/05</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. This communication is in response to applicant's amendment filed July 21, 2006.  
Claims 1, 11, 21, 25, 28, 37, 39, 42, 51, 53, 57, 58, and 60 have been amended.  
Claims 2-6, 12-16, 22-23, 38, 43-44, 52, 54-56, and 59 have been canceled. Claims 1, 7-11, 17-21, 24-28, 31-37, 39-42, 45-51, 53, 57-58, and 60-61 are currently pending in this case.

## ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on July 5, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

## **Response to Arguments**

3. Applicant's arguments with respect to claims 1, 7-11, 17-21, 24-28, 31-37, 39-42, 45-51, 53, 57-58, and 60-61 have been considered but are moot in view of the new ground(s) of rejection.

## ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7-11, 17-21, 24-28, 31-37, 39-42, 45-51, 53, 57-58, and 60-61 are

rejected under 35 U.S.C. 103(a) as being unpatentable over Black (US 6,307,956B1) in

Art Unit: 3621

view of Yguerabide et al (US 6,586,193) further in view of either Schmidt et al (US 7,094,531) or Lockhart et al (US 6,344,316).

6. Black discloses an identity verification system, method, and apparatus that employ biometric technology for identity verification (e.g. col 4 ln 18-28). The biometric properties employed include, but are not limited to DNA (e.g. col 4 ln 30-40). Said system, method and apparatus make a "match" or "no match" decision and issues and certify or do not certify the user. (e.g. col 4 ln 55-65). Further, Black discloses recording and storing the layout information as either digital or magnetic information (e.g. col 4 ln 20-30). Further, Black discloses the use of cell capture/analysis sensors for use in identifying DNA (e.g. col 7 ln 50-60).

7. Although Black does not specifically reference recording the DNA layout information by arranging probe layouts in row and column directions, it would be obvious to one of ordinary skill in the art that array of immobilized single-stranded DNA (ssDNA) could be arrayed as rows and columns or any other logical manner (e.g. col 25 ln 25-35).

8. Further, Yguerabide does disclose reacting a DNA array in which a plurality of DNA probes corresponding to plural kinds of genes are arranged in a predetermined order, with a gene obtained from a given person (e.g. col 11 ln 30-50). Such an arrangement can obviously be used in conjunction or in combination with Black by one of ordinary skill in the art in order to issue an authentication certificate using, *inter alia*, a hybridization pattern.

Art Unit: 3621

9. Neither Black nor Yguerabide disclose attaching the reacted DNA array to a base of the authentication certificate. However, both Schmidt (at, e.g. col.3 ln 21-31) and Lockhart (at, e.g., col 107 ln 4-12) provide such a disclosure. Such an arrangement can obviously be used in conjunction or in combination with Black and Yguerabide by one of ordinary skill in the art in order to issue an unique authentication certificate.

10. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Selinfreund (US 6,458,595) discloses automatic fingerprint methods and chemistry for product authentication and monitoring.

13. Black (US 6,539,101) discloses a method for identity verification.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 707.07 regarding the non-finality of the present Office action.

Art Unit: 3621

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of this application may be obtained via the Internet at http://www.uspto.gov. Patent Center users will be prompted to enter the Application Number, Filing Date, and Serial Number.

An examiner can normally be reached on 8:30-5:00 Monday through Friday.

Art Unit: 3621

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Cristina Owen Sherr*  
Cristina Owen Sherr  
Patent Examiner, AU 3621

*ANDREW J. FISCHER*  
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*10/2/06*